

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

BROADCAST MUSIC, INC.

V.

DMX, INC.

SUMMONS IN A CIVIL ACTION

08 CV 00216
CASE NUMBER 08 Civ. (LLS)

Related to United States v.
Broadcast Music, Inc.,
64 Civ. 3787 (LLS)

TO: (Name and address of Defendant)

DMX, Inc.
600 Congress Avenue, Suite 1400
Austin, TX 78701

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

James C. Fitzpatrick
Hughes Hubbard & Reed LLP
One Battery Park Plaza
New York, NY 10004

an answer to the complaint which is served on you with this summons, within twenty (20) days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

CLERK

(By) DEPUTY CLERK

JAN 10 2008

DATE

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RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	
NAME OF SERVER (<i>PRINT</i>)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted: </div> <div> <input type="checkbox"/> Other (specify): </div>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BROADCAST MUSIC, INC.,

Petitioner,

-against-

DMX Inc.,

Respondent.

No. 08cv00216 (LLS)

AFFIDAVIT OF SERVICE

I, JOHN R. CLANCY, being duly sworn, depose and say that I am a licensed Process Server and that I am over the age of eighteen years, not a party to this action, and is in the employ of Hughes, Hubbard & Reed, LLP.

That on January 11, 2007, at approximately 11:35 am, deponent served true copies of a **SUMMONS IN A CIVIL ACTION, PETITION FOR DETERMINATION OF REASONABLE LICENSE FEES, RULE 7.1 STATEMENT** by hand upon:

R. Bruce Rich
Weil Gotshal & Manges LLP
767 Fifth Avenue
New York, New York, 10153

By personally delivering true copies to and leaving them with Mark Ribaud, the Assistant Managing Clerk for Weil Gotshal & Manges LLP at 767 Fifth Avenue, New York, New York, who stated he was authorized to accept service on behalf of Weil Gotshal & Manges LLP. The firm had agreed to accept service on behalf of the Defendant.

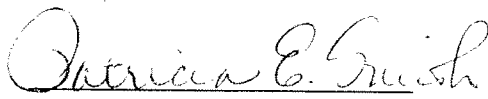
Mr. Ribaudon can be described as a white male, approximately 45 to 50 years of age, approximately 5' 10" and 160 pounds, with short black and grey hair and a mustache.



JOHN R. CLANCY

Sworn to before me this

11th day of January, 2008



Notary Public

PATRICIA E. SMITH
Notary Public, State of New York
No. 1SM4796951
Qualified in Richmond County
Certificate Filed in New York County
Commission Expires March 30, 20 11